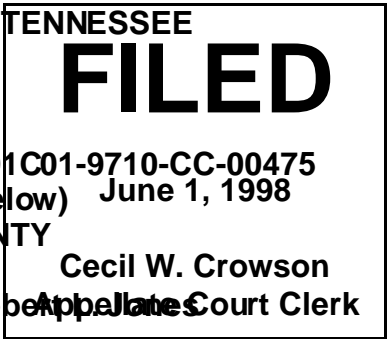


IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE



CAREY GILES FRALIX,)
Appellant,) C.C.A. NO. 01C01-9710-CC-00475
VS.) (No. 7888 Below)
STATE OF TENNESSEE,) GILES COUNTY
Appellee.) The Hon. Robert J. Moore
(Dismissal of Post-Conviction Petition)
AFFIRMED PURSUANT TO RULE 20

ORDER

This matter is before the Court upon the state’s motion requesting that the judgment in the above-styled cause be affirmed pursuant to Rule 20, Tennessee Court of Criminal Appeals Rules.

It appears that on October 7, 1984, the petitioner was convicted by a jury of second-degree murder. Subsequently, he was sentenced to life imprisonment. The petitioner’s conviction was upheld by this Court on April 7, 1987, State v. Carey Giles Fralix, No. 86-175-III (Tenn. Crim. App., at Nashville, April. 7, 1987), and the petitioner’s application for permission to appeal to the Supreme Court was denied on June 29, 1987. The petitioner filed a post-conviction petition on September 9, 1996, and the trial court dismissed the petition without a hearing upon a finding that it did not have the authority to consider the validity of the petitioner’s Florida convictions which were used for sentencing enhancement purposes. We agree with the trial court.

It appears from the record that the petitioner pled guilty to arson of a vehicle and arson in Florida prior to being convicted of second-degree murder in Tennessee. The convictions were used to enhance the petitioner’s sentence in this case. The petitioner contends that his prior guilty pleas in Florida are constitutionally invalid because he was not advised that these convictions could be used in proceedings to enhance the punishment of a subsequent offense.

In State v. Prince, 781 S.W.2d 846 (Tenn.1989), our Supreme Court established the two-step process for collaterally attacking an adjudication of habitual criminality:

Prior to making a [collateral attack by post-conviction on the status of habitual criminality, petitioner] must by appropriate petition in the court where his earlier conviction took place seek a hearing to determine the constitutional validity of any such prior conviction. If he is successful in those proceedings, he then exposes the enhanced sentence on the subsequent conviction to collateral attack as well.

* * * * *

It follows that, if defendant's guilty pleas are determined to be void, then the enhanced sentence must be vacated in an appropriate proceeding and the original trial sentence reinstated.

Id. at 851.

Although specifically addressing the process for collaterally attacking an adjudication of habitual criminality, the holding in Prince applies to collaterally attacking any prior convictions. Accordingly, under Prince, the petitioner was not entitled to collaterally attack the Florida convictions in his post-conviction petition, and the trial court properly dismissed the petition on this basis.

IT IS, THEREFORE, ORDERED that the state's motion to affirm the judgment of the trial court under Rule 20, Tennessee Court of Criminal Appeals Rules, is granted, and the judgment of the trial court is affirmed. The petitioner being indigent, costs are taxed to the state.

ENTER, this the ____ day of May, 1998.

JOHN H. PEAY, JUDGE

CONCUR:

DAVID H. WELLES, JUDGE

THOMAS T. WOODALL, JUDGE